



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: August 3, 2007

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CHALLENGE TO ARBITRATOR'S AWARD OF ATTORNEY'S FEES IN CITY PENSION CLASS ACTION CASE DROPPED

San Diego, CA – An arbitrator's award of nominal attorney's fees to the counsel who represented City employees in a class action lawsuit has been resolved by an agreement filed in San Diego Superior Court.

The case, entitled *McGuigan v. City of San Diego*, was a class action lawsuit alleging the City's underfunding of the City employee pension system. Mr. Conger is counsel for the *McGuigan* class members, who filed the case on June 28, 2005.

The City recently settled the case by agreeing to pay \$173 million into the San Diego City Employees' Retirement System over five years; thereby, increasing the system's funding level.

The decision regarding attorney's fees was submitted to binding arbitration. Retired federal magistrate Judge Harry R. McCue, awarded only nominal fees to Conger who had sought \$25 million.

In today's settlement with the City, Mr. Conger has agreed to dismiss a previously-filed challenge to the arbitrator's award and to stipulate to entry of the award as part of an overall settlement in which the City will pay less than 1% of the award, or \$1.6 million in attorney fees to Michael Conger. These settlements do not affect the City's challenge to the legality of certain pension benefits, which is the subject of separate litigation.

The City and Mr. Conger will work together to obtain finalization of the judgment, which remains under review by the Fourth District Court of Appeal, in San Diego after a challenge filed by the San Diego Police Officers' Association.

Both Mr. Conger and City Attorney Michael Aguirre expressed satisfaction that the parties were able to set aside their differences with regard to attorney's fees. In their joint written remarks, Mr. Conger and Mr. Aguirre stated: "The City and class counsel regret the challenge to Judge McCue's arbitration award and any harm to his reputation caused by the challenge to his award. The parties appreciate Judge McCue's service in the case and respect his integrity and long career of public service."

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